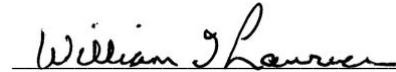


**SEYDOU B. GOUNOU,** )  
 )  
 **Plaintiff,** )  
 )  
 **vs.** ) **Cause No. 1:10-cv-750-WTL-DML**  
 )  
 **WERNER ENTERPRISES, d/b/a** )  
 **DRIVERS MANAGEMENT, LLC,** )  
 )  
 **Defendant.** )

On December 15, 2010, the Court entered an order adopting the recommendation of the Magistrate Judge assigned to this case that the case be dismissed without prejudice due to the Plaintiff's failure to appear at the September 21, 2010, initial pretrial conference, failure to participate in the drafting of the case management plan, failure to respond to the order to show cause issued as a result of those failures, and failure to respond to the Defendant's motion for judgment on the pleadings. As the Court noted in that Entry, the Plaintiff also did not file an objection to the Magistrate Judge's report and recommendation. The dismissal of the case finally got the attention of Plaintiff's counsel, however, and he has now filed a motion asking the Court to set aside the entry of judgment and reopen the case in which he essentially apologizes for his failures and argues that it is unjust to punish the client for the failures of his attorney. "However, it is well-settled that a Rule 59(e) motion is not properly utilized to advance arguments or theories that could and should have been made before the district court rendered a judgment," *Sigsworth v. City of Aurora, Ill.*, 487 F.3d 506, 512 (7<sup>th</sup> Cir. 2007) (citations omitted), and the Plaintiff had ample opportunity to argue that dismissal was not appropriate prior to the entry of judgment, either by responding to the order to show cause or objecting to the

Magistrate Judge's recommendation. Having failed to do so then, the Plaintiff may not do so now. Accordingly, the motion to set aside the judgment is **DENIED**.

SO ORDERED: 03/09/2011

A handwritten signature in black ink, reading "William T. Lawrence", is positioned above a horizontal line.

Hon. William T. Lawrence, Judge  
United States District Court  
Southern District of Indiana

Copies to all counsel of record via electronic notification